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**INDEPENDENT STATE AUDITOR'S REPORT
ON THE
EFFECTIVENESS OF THE BOAT EXCISE TAX
COLLECTION SYSTEM IN THE
COMMONWEALTH OF MASSACHUSETTS**

**OFFICIAL AUDIT
REPORT
SEPTEMBER 9, 2004**

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

The excise tax on boats is established and regulated primarily by Chapter 60B of the Massachusetts General Laws entitled “Excise on Boats, Ships and Vessels in Lieu of Local Property Tax”. Other laws that pertain to the excise tax on boats and are necessary for its regulation and implementation include Chapter 59, Section 8, of the General Laws, entitled “Excise Tax on Certain Ships or Vessels”, Chapter 64H of the General Laws, entitled “Tax on Retail Sales of Certain Tangible Personal Property” and Chapter 90B of the General Laws, entitled “Motorboats, Other Vessels, and Recreation Vehicles.”

This review was initiated to determine the effectiveness of the boat excise tax system in the Commonwealth. However, as our review progressed, we determined that the intergovernmental dependence and cooperation necessary for an effective integrated system for the collection of boat excise taxes was also relevant to sales taxes and homeland security issues relating to waterway and harbor access. We reviewed the relevant statutes and their implementation governing the assessment and collection of the boat excise tax and the governmental interaction required for an effective system as it relates to the more than 175,000 boats in the Commonwealth. We contacted 162 communities and the relevant state and federal agencies that are involved in the system.

AUDIT RESULTS

7

INEFFECTIVE BOAT EXCISE TAX COLLECTION SYSTEM RESULTS IN LOSS OF MILLIONS IN REVENUE TO THE COMMONWEALTH AND ITS CITIES AND TOWNS

7

Our review indicated that the Commonwealth’s system for collecting boat excise taxes is ineffective, inefficient, and results in the loss of millions of dollars in potential revenue for Massachusetts cities and towns. Because of a breakdown in complex intergovernmental cooperation and interdependence as outlined by the statutes and an outdated and unrealistic tax rate structure, many communities have become discouraged by the problems with the system. Consequently, municipal efforts to collect boat excise taxes range from nothing for some communities that, contrary to law, do not bother to collect because they believe it is not worth the effort, to those communities that exert a considerable effort to collect, but are still not assured that they are collecting the full potential of boat excise taxes. In fact, we found that of the 162 communities we reviewed, 120 which had taxable registered or documented boats did not collect any boat excise taxes (See Appendix A for details). Also, our review of the boat excise tax collection system disclosed the following:

- Over 15,000 federally documented boats were not reported to local government,
- A significant number of communities were discouraged with the cost ineffectiveness of the system and consequently did not assess and collect boat excise taxes,
- Many communities that attempted to collect boat excise taxes were not reaching their full potential,

- Many boat owners registered their boats in communities that do not assess boat excise taxes in order to evade the system,
- An estimated \$25 to \$30 million in boat excise taxes has been lost to Massachusetts communities since 1997,
- An estimated \$4.3 million in potential boat registration fees has been lost to the Commonwealth since 1997, and
- Millions of dollars in potential sales or use taxes has been lost to the Commonwealth.

During our audit, we were informed that communities may also be losing potential personal property taxes in other areas, such as jet skis, snowmobiles, and all-terrain and off-road vehicles.

Implementing the changes necessary for an effective and coordinated process will not only increase much-needed revenues to the Commonwealth and its communities, but will also provide funds for the maintenance of the Commonwealth's waterways and harbors and related local public safety and security enhancements for the surrounding vicinity. Moreover, the information sharing and coordination necessary to implement an effective boat excise tax collection system could be used as a basis for grant applications from the federal Homeland Security Grant Program.

APPENDIX A	17
Master List of Communities Reviewed	17
APPENDIX B	24
Legislation Relative to Boat Excise Tax:	24
House Bill No. 3264	24
House Bill No. 3265	26
House Bill No. 3266	27
House Bill No. 3267	28
House Bill No. 3268	29
APPENDIX C	32
Glossary of Terms	32

INTRODUCTION

Background

The Excise Tax on boats is established and regulated primarily by Chapter 60B of the Massachusetts General Laws, “Excise on Boats, Ships and Vessels in Lieu of Local Property Tax.” Other laws that pertain to the excise tax on boats and are necessary for its regulation and implementation include Chapter 59, Section 8, of the General Laws, “Excise Tax on Certain Ships or Vessels;” Chapter 64H, of the General Laws, “Tax on Retail Sales of Certain Tangible Personal Property;” and Chapter 90B, of the General Laws, “Motorboats, Other Vessels, and Recreational Vehicles.” Other related statutes that pertain to this review will be referenced as applicable.

Based on information from the Massachusetts Environmental Police Boat Registration and Title Bureau (Bureau) within the Commonwealth’s Executive Office of Environmental Affairs (EOEA) and from the National Vessel Documentation Center, as of January 2004 there were approximately 175,632 boats listed with a Massachusetts address, including approximately 160,265 boats registered with the Bureau and approximately 15,367 federally documented boats listed by the federal government as having a Massachusetts address or hailing port. It is important to note that these lists are mutually exclusive. As discussed in the Audit Results section of this report, we also noted various shortcomings with the federal database from which the list was generated. We wish to thank officials from the Massachusetts Maritime Academy for their assistance in helping us to identify the source for a list of federally documented boats, officials of the Bureau in providing us with a list of all boats registered in the Commonwealth with the Bureau, the Department of Revenue (DOR), and various municipal officials including assessors, tax collectors, treasurers, and harbor masters, where applicable.

Chapter 60B, Section 2, of the General Laws requires communities to annually assess, except as herein provided, every vessel for the privilege of using the waterways of the Commonwealth at the rate of \$10 per thousand of valuation, according to the table that follows.

LENGTH OF VESSEL			VALUATIONS OF VESSELS		
(Overall center line length excluding bowsprits, boomkins and similar extensions)			(Based on age of vessel)		
			Under 4 Years of Age	4 through 6 Years of Age	7 or More Years of Age
under 16'			\$1,000	\$700	\$400
16'	but less than	17.5'	\$1,500	\$1,000	\$800
17.5'	but less than	20'	\$3,000	\$2,000	\$1,500
20'	but less than	22.5'	\$5,000	\$3,300	\$2,500
22.5'	but less than	25'	\$7,500	\$5,000	\$3,800
25'	but less than	27.5'	\$10,500	\$7,000	\$5,300
27.5'	but less than	30'	\$14,000	\$9,300	\$7,000
30'	but less than	35'	\$18,500	\$12,300	\$9,300
35'	but less than	40'	\$24,000	\$16,000	\$12,000
40'	but less than	50'	\$31,500	\$21,000	\$15,800
50'	but less than	60'	\$41,000	\$27,300	\$20,500
60'	or over		\$50,000	\$33,000	\$24,800

Section 3 of this Chapter also exempts boats with a valuation, per the table, of \$1,000 or less. Section 2 also requires that boat owners as of July 1 shall annually, on or before August 1, report under oath to the assessors where their boat is “habitually moored or docked” for the summer season, or if it is not moored or docked, where it is “principally situated” during the calendar year, and shall set forth the boat’s state registration or federal documentation numbers and description. “Principally situated” also includes the city or town in Massachusetts where unregistered or undocumented boats are principally located during the calendar year.

In order for the Director of Marine and Recreational Vehicles Division (Director) of the Bureau to develop a comprehensive list, Chapter 60B, Section 6, of the General Laws requires DOR to annually provide the Director with a list of all boats, nationally documented as of July 1 under the laws of the United States, whose owners reside in Massachusetts. This list should include the name and residence of the owner, federal documentation number, type, length, model year, horsepower used, and community in which the boat is habitually moored or docked.

Chapter 60B, Section 4, of the General Laws requires the board of assessors to commit with their warrant the boat excise to the tax collector, who shall seasonally notify boat owners of the excise assessed. As discussed in the Audit Results section of this report, we found that not all communities perform this duty.

Chapter 60B, Section 5, of the General Laws provides that Chapter 60A of the General Laws relative to the collection and payment of motor vehicle excise taxes shall apply to the excise on boats. Accordingly, under Chapter 60A, Section 2A the local tax collector may, if the tax remains unpaid, notify DOR and the Registrar of Motor Vehicles of the nonpayment, including interest. Said registrar shall not renew the boat owner's license to operate a motor vehicle or allow the registration, renewal, or transfer of the vehicle until after notice from the local tax collector or DOR that the matter has been resolved.

In March 2003 the Office of the State Comptroller, as authorized by Chapter 7A, Section 18, of the General Laws, issued Policy Memorandum No. 324, which announced the expansion of the intercept program to assist municipalities in their debt collection, until the delinquent receivable is paid off, through this process.

Chapter 64H, Section 25A, of the General Laws prohibits the state from issuing a registration, except for renewals, for a boat until the owner demonstrates that any sales tax due has been paid or that no such tax is due. However, because of the exemptions from registration granted to federally documented boats, sales between individuals may result in the evasion of state or community sales, use, or excise taxes.

Chapter 64H, Section 25 B, of the General Laws requires the local harbormasters on or before January 31 for the previous calendar year to report to DOR boats that are not registered in the Commonwealth but that were allowed to stay under local harbormaster jurisdiction for a period of at least two weeks. DOR shall make such information available to cities and towns for local excise tax purposes.

Chapter 90B, Section 3, of the General Laws, subject to the exceptions in Section 2, requires the owners of boats principally used in the Commonwealth to apply for a certificate of number from the Bureau. These exceptions include those vessels that have been documented (registered) with the federal government.

Chapter 90B, Sections 2 and 11, of the General Laws states that the Director may exempt any vessel from the registration numbering provisions of this Chapter if such vessel has been made exempt from the numbering display provisions of the Federal Boating Act of 1958 but not from displaying a decal received upon registration. However, according to federal officials, all documented vessels

must comply with the laws of the state in which they are operated, and each vessel's document must be shown to state law enforcement personnel upon their demand. States may require documented vessels to be registered (but not numbered) and to display state decals showing that they have complied with state requirements.

Chapter 90B, Section 11, of the General Laws further requires the Bureau to annually transmit to the local assessors a list of state-registered or federally documented boats habitually moored or docked in their cities or towns, or if not so moored and docked, a list of documented or registered boats whose owners reside in such city or town, together with any information to assist the assessors in listing and valuing or assessing such boats.

Chapter 60B, Section 2, and Chapter 40, Section 5G, of the General Laws authorizes communities to utilize 50% of the boat excise received for the improvement and maintenance of their waterways and for related law enforcement and fire prevention.

Chapter 59, Section 8, of the General Laws provides for the local assessment on documented vessels in certain businesses of an excise tax of one third of 1% upon such documented interest.

Chapter 63, Section 67, of the General Laws provides that DOR shall annually assess an excise tax on documented vessels in certain businesses of one third of 1% upon the value of corporate interest.

If requested by a city or town assessor, the Director provides a list of all vessels registered by the Commonwealth as stored in that community. This list provides data to the city and town to begin the process of collecting boat excise taxes. However, the federally documented list is not provided to communities because DOR does not provide it to the Bureau, contrary to Chapter 60B, Section 6, of the General Laws.

Audit Scope, Objectives, and Methodology

Our review, which examined the complexities of the system of interdependence between local, state, and federal government agencies for the sharing of data for the collection of excise taxes on vessels (boats), was conducted in accordance with applicable generally accepted government auditing standards. This review was initiated as a result of concerns that the cities and towns of the Commonwealth are losing potential boat excise tax revenue from boats used for recreational purposes as a result of the complexities and inefficiencies in the excise tax collection system and in

light of the increase of over 20,000 in the number of newly state registered and federally documented boats in Massachusetts over the last several years.

The objectives of this review were to determine how and whether:

- Cities and towns are losing potential boat excise tax revenue as a result of the system's interdependencies, complexities, and inefficiencies.
- The Commonwealth of Massachusetts is losing excise, sales or use tax revenue because of the state's difficulty to monitor the sale and purchase of federally documented vessels between Massachusetts residents and the purchase of vessels from outside of Massachusetts and documented in Massachusetts. This problem is complicated by the fact that two neighboring states, Rhode Island and New Hampshire, have no sales tax on boats.

To accomplish our objectives we:

- Reviewed applicable laws, rules, and regulations pertaining to the assessment and collection of boat excise taxes.
- Reviewed applicable laws, rules, and regulations pertaining to the collection of sales and use tax.
- Reviewed activities in 162 communities and interviewed various community officials, including assessors, treasurers, tax collectors, and harbormasters, where applicable, to determine whether they collect boat excise taxes and what methods they use to assess, levy and collect boat excise taxes. (See Appendix A for a list of communities included in our review.)
- Interviewed DOR officials regarding compliance with applicable laws regarding boat excise, sales, or use taxes.
- Obtained and reviewed a list from the Bureau dated January 1, 2004, of all vessels registered with the Commonwealth of Massachusetts.
- Obtained the National Vessel Documentation Center's list of federally documented vessels dated January 1, 2004 and identified from the list approximately 15,367 vessels from Massachusetts that are federally documented.
- Provided selected communities with a list of federally documented and state-registered boats that were listed as hailing from (habitually moored or docked) or stored in their towns.
- Reviewed the lists of registered and documented and state-registered boats to determine whether owners of boats from communities that collect excise taxes were indicating that their boats were habitually stored or moored in communities that do not collect excise taxes on boats.

- Obtained proposed legislation, to remedy many of the issues noted in this report, from the Massachusetts Association of Assessor's Officers legislative committee members.
- Searched databases of registered and documented boats to determine whether taxable boats were listed in communities that do not collect boat excise taxes.
- Provided DOR officials with a list of 1,625 newly purchased and documented boats between 2000 and 2003 whose owners reside in Massachusetts to determine whether applicable sales or use taxes were paid.
- Provided the Director of Marine and Recreational Vehicles with the list of federally documented vessels that DOR is required to furnish.
- Contacted other states to determine whether they register documented vessels.

AUDIT RESULTS

INEFFECTIVE BOAT EXCISE TAX COLLECTION SYSTEM RESULTS IN LOSS OF MILLIONS IN REVENUE TO THE COMMONWEALTH AND ITS CITIES AND TOWNS

Our review indicated that the Commonwealth's system for collecting boat excise taxes is ineffective and inefficient, and results in lost potential revenue for Massachusetts cities and towns. Because of a breakdown in complex intergovernmental cooperation and interdependence and an outdated and unrealistic tax rate structure, many communities have become discouraged by the problems with the system. (The Background section of this report demonstrates the complex intergovernmental cooperation and coordination as prescribed by statute necessary for the system to function effectively.) Consequently, municipal efforts to collect boat excise taxes range from nothing for some communities that, contrary to law, do not bother to collect because they believe it is not worth the effort, to those communities that exert a considerable effort to collect, but are still not assured that they are collecting the full potential of boat excise taxes. In fact, we found that of the 162 communities we reviewed, 120 which had taxable registered or documented boats did not collect any boat excise taxes (See Appendix A for details).

In July 1988, DOR issued a memorandum to all cities and towns regarding the collection of boat excise taxes, entitled "Obligation to Assess and Collect Boat Excise." This memorandum, which emphasized the importance of and gave explicit instructions for the collection of boat excise taxes, stated, in part:

In this era of diminishing revenues, the best interest of all cities and towns where boats are docked, moored or principally situated is most effectively served through a diligent attempt to collect the boat excise. Neglecting this assessment results in a loss of revenues by affected cities and towns as well as an inequitable system of taxation of boat-owners throughout the commonwealth.

The Massachusetts General Laws mandate the collection and assessment of the boat excise and contain several provisions which assist in this assessment and collection:

1. *Chapter 60B states, in pertinent part:*

[T]here shall be assessed and levied by each city and town in each fiscal year on every vessel, and its equipment, for the privilege of using the waterways of the commonwealth, an excise measured by the value thereof. . . .

2. *The legislature in Chapter 175 of the Acts of 1987 prescribed penalties upon boat-owners who fail to pay the boat excise when due. Further, this act requires harbormasters to refuse to allow a vessel, upon which an excise has not been*

paid, to "moor, dock, or otherwise be situated within the waterways" of the city or town.

3. *The Director of Law Enforcement of the Department of Fisheries, Wildlife and Environmental Law Enforcement is directed to assist in the collection of excise. Under M.G.L. Ch. 90B, S11, the Director:*

Shall annually transmit to the assessors of each city and town in the Commonwealth ... a list of documented or registered owners of boats habitually moored or docked in such a city or town, and if not so moored or docked, a list of documented or registered boats whose owners reside in such city or town, together with any information which may assist the assessors in listing and valuing or assessing such boats. .

Assessors should work with harbormasters to see that they report to the assessors sufficient information concerning all unregistered boats which have been frequently moored or docked in the particular city or town to enable the assessors to cause excise bills to be issued to the owners of these boats.

Included in this memorandum were additional guidelines set forth by DOR, as follows:

- a. *Assessors, upon receipt from the Director of Fisheries & Wildlife of the annual list of documented or registered owners of boats, habitually moored or docked in the town over which they have jurisdiction, shall issue a commitment and warrant to the Collector, imposing a boat excise on these owners.*
- b. *Collectors, upon receipt of boat excise commitments and warrants from Assessors, shall forthwith mail excise bills to all boat owners on each commitment list.*
- c. *Collectors shall impose the penalties set out in Chapter 175 of the Acts of 1987 upon all boat owners who are delinquent in their boat excise payments.*
- d. *Harbormasters shall refuse to allow any vessel upon which there exists a delinquent boat excise to "moor, dock, or otherwise be situated within the waterways" of the city or town.*

During our review we obtained a copy of a 1997 report issued by DOR that listed all the communities in the Commonwealth and how much boat excise taxes they collected during that period. This report showed that only 108 (approximately 30%) of 351 cities and towns collected boat excise taxes, which totaled \$1,421,212 during that year. Since DOR no longer keeps these statistics relative to boat excise taxes, no current data is available to make a comparison. For example, we found that four communities on the list, which collected a total of \$4,740 in boat excise taxes during 1997, are now not collecting any boat excise taxes. Conversely, we found that seven communities that did not collect boat excise taxes during 1997 reported that they are now actively collecting boat excise taxes. Over the seven intervening years, based on the above information and factoring in the growth during this period of 20,000 newly registered boats along with more than

15,000 unregistered federally documented boats, we estimate that between \$25 to \$30 million has been lost to communities. This estimate is exclusive of potential lost registration fees of approximately \$4.3 million from federally documented boats that have not been registered for the last 7 years, as well as millions in sales or use taxes to the Commonwealth.

We were also informed by the Director that there may be other areas of potential lost excise taxes to Massachusetts cities and towns. The Director informed us that there are approximately 42,000 jet skis, snowmobiles, and all-terrain and off road vehicles registered with the state, and that he has not received any requests from communities for a list of these vehicles.

However, in spite of its guidance to the communities, DOR has not helped communities accomplish their mission because it has not complied with its own mandate to provide communities with a list of federally documented boats as required by law. This breakdown in intergovernmental cooperation and reporting at the state level adds unnecessary cost and effort to the communities, and many of them are consequently not bothering to collect boat excise taxes at all, while others are not collecting the full potential available to them, which contributes to the “inequitable system of taxation of boat owners throughout the Commonwealth” that DOR advocates against in its memorandum.

By not collecting all the boat excise taxes to which they are entitled, some communities are placing an extra burden on their real estate taxes and other sources of revenue to their communities (e.g., by implementing or increasing student activity and transportation fees, trash, and dog license fees) as well as placing demands on the Commonwealth to make up the budget shortfalls through additional local aid. This is not fair to those communities that do collect boat excise taxes. In addition, because some communities do not collect boat excise taxes, boat owners can avoid paying this tax by registering or documenting their boats in a non-taxing community or state (See examples on page 11 and 12) even though they live in or store their boats in a community that does assess boat excise taxes. This is analogous to people improperly registering their cars out-of-state to avoid paying sales and excise taxes in Massachusetts.

In addition, we found that there is some confusion among communities as to the application of Chapter 60B, Section 2, of the General Laws, in that some communities do not apply it unless a boat exceeds 20 feet in length, and others do not apply it unless the value of the boat exceeds \$1,500. Chapter 60B authorizes the assessment of boats 16 feet or longer and valued over \$1,000. This

situation is also complicated by the fact that a boat can be taxed by the community in which it is supposedly “habitually moored or docked” during the summer season or where it is “principally situated” during the calendar year, and neither of these places needs to be where the owner resides. This allows boat owners to evade the payment of boat excise and possibly sales taxes unless the communities and agencies of the Commonwealth work together to correct these problems.

Unlike the comparatively comprehensive and effective motor vehicle excise tax collection system, the boat excise tax system is inefficient and in need of revision. Because of the weaknesses in the system and the fact that the rate structure is outdated and unrealistic, the Massachusetts Association of Assessor’s Officers has filed legislation (House Bill No. 3264) to correct some of the problems that would establish minimums and increase revenues for local communities (see Appendix B). This legislation would eliminate the old system, which is based on a boat’s length and age and bears no relationship with the boat’s value, and utilize instead the “marine blue book” method of values to calculate the boat excise tax in a similar manner used for calculating automobile excise taxes. Additionally, the legislation also raises the enforcement capabilities for non-payment by utilizing the same process used for the non-payment of other vehicle excise taxes.

We also found, that although Chapter 60B, Section 6, of the General Laws requires DOR to provide the Director with a list of all federally documented boats whose owners reside in Massachusetts as of July 1, and that although Chapter 64H, Section 25B, of the General Laws requires local harbor masters to report to DOR, each calendar year, unregistered boats that were allowed to stay in local waterways under his jurisdiction for at least two weeks, and DOR in turn is required to provide such information to cities and towns; these reporting cycles are not taking place. This breakdown in intergovernmental cooperation hinders the Director from fulfilling the requirements of Chapter 90B, Section 11, of the General Laws to provide annually to local assessors a list of all boats both registered with the state or documented with the federal government, whose owners reside in or whose boats are habitually moored or docked in Commonwealth cities and towns and utilize the waterways.

We found that many communities were not aware that the lists from the Director were not comprehensive in that they only included state registered boats and did not include federally documented boats, and therefore did not maximize potential sales, use, and excise tax revenues to the Commonwealth and its cities and towns. Moreover, many communities do not avail themselves

of the state list and instead spent extra time and effort to develop their own databases. In this regard, a subscription to acquire a list of all federally documented boats costs \$1,740 annually. Because DOR does not share the pertinent data with the Bureau, which in turn could extract and provide each community with the data it needs to collect boat excise taxes, each community would have to expend \$1,740 per year for the list, resulting in duplicative work and a waste of as much as \$610,740 per year. This added and unnecessary cost and effort is a factor in the decision many communities make to not collect the excise taxes owed them.

Our testing shows examples of problems with the system as demonstrated and typified by the certain cases. As shown below, we found six cases of boats registered with the Commonwealth of Massachusetts that identified Randolph, a town that does not collect boat excise taxes, as their storage town. Owners of these vessels were listed as residing in other towns that collect on boat excise taxes, but did not do so because the towns were not aware of these registered boats.

<u>Community</u>	<u>Size of Boat</u>
Whitman	21 feet
Raynham	22 feet
Quincy	18 and 22 feet
Weymouth	20 feet
Lakeville	19 feet
Hanover	21 feet

Additionally, from the federally documented list we found one case of a boat with a hailing port of Randolph (a community that does not collect boat excise taxes) whose owner resided in Weymouth, and did not pay any boat excise tax to this community that does collect.

Our testing also revealed five cases of boats registered with the Commonwealth of Massachusetts that identified Cambridge, a city that does not collect boat excise tax, as their storage town. Owners of these vessels were listed as residing from other towns that collect on boat excise taxes, but did not do so because the towns were not aware of these registered boats.

<u>Community</u>	<u>Size of Boat</u>
Arlington	20 and 24 feet
Lowell	28 feet
Medford	29 and 21 feet
Waltham	21 and 23 feet
Winchester	33 feet

Our testing from the federal documented list also identified four cases of boats with a hailing port of Cambridge whose owners listed their residences as Arlington, Watertown, or Hingham, and these owners did not pay any boat excise taxes to the communities where they reside, although these communities do collect boat excise taxes.

<u>Community</u>	<u>Size of Boat</u>
Arlington	35 and 31 feet
Watertown	32 feet
Hingham	44 feet

As a result, these owners were able to improperly avoid paying local boat excise taxes by claiming that they store their boats in a community that does not collect such taxes. This problem is further exacerbated by the fact that Massachusetts does not require the registration of federally documented boats, and DOR does not provide the required list of documented vessels to the Director. Since there were 120 communities in our sample that do not collect boat excise taxes, the potential for this type of tax evasion is significant. Further testing found that all 120 of those communities had taxable boats.

In addition to the systemic problems of a lack of intergovernmental reporting and cost ineffectiveness when comparing the revenue received with the costs and effort to collect, we found other detriments to the system that make it inefficient and cumbersome to operate. For example, local assessors noted that the data or information they received was difficult to work with, as follows:

Federal List

- a. The database contains over 300,000 records, each of which contains 76 fields and 2,434 characters, which makes it difficult to extract pertinent information for local purposes.
- b. Numerous fields (categories) such as state, hailing port, etc., are blank, incomplete, or contained spelling errors, making it difficult or impossible for communities to determine the name or address of the owner, hailing port, length, age, etc., and thus impose the appropriate tax. This indicates that the data is not properly screened when input.
- c. The list is costly to communities at \$1,740 per year, when it can instead be obtained once by the state and shared with the communities.
- d. The hailing port listed does not always correspond to a city or town name (e.g., Padnaram, Bass River, Lewis Bay, Prince Cove), making it difficult to identify the location of the boat .

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- e. The hailing port listed is not always where the boat is situated.
 - f. Vessel names can be used by multiple owners (e.g., we found 102 boats named “No Problem,” 136 named “Quest,” 346 named “Serenity” and 187 named “Serendipity”), including many from the same homeport, thus almost requiring the boarding of the boat to identify the owner.
 - g. Owner identification information is maintained inside of a nationally documented vessel, whereas a state registered vessel’s owner can be identified by computer match to the state identification number preceded by the state’s initials displayed on the outside of the boat.
 - h. Boat documentation instructions are vague.
 - i. Other stated caveats that accompany the list include:
 - Ownership information of boats missing an issuance or expiration date, because these boats may have been sold and the new owners may choose not to have them documented, or because some prior or new owners may choose to have them registered with a state, will not be reported.
 - Expiration dates may be blank or past because boats may be in investigative status and not out of documentation.
 - The year built and tonnage may not be included.
 - An asterisk indicates missing or unreported data for all vessels or ownership variables.

As a result, in the future when DOR does comply with the law and provide the Bureau with a list of federally documented boats, the Bureau will have to do extra work with the data base in order to provide the communities with useful information for billing purposes.

State List

- a. Because DOR does not provide the Director with a list of federally documented boats, the list provided communities is therefore deficient of a significant number of high valued boats.
- b. Approximately 400 instances with inaccurate or incomplete length or age fields were noted, making it impossible to generate accurate excise tax bills.
- c. Approximately 52,300 boats had incomplete information for identification purposes.
- d. Cities and towns in which boat owners reside do not get a list of those owners who indicated that they store their boat in another state or community. This contributes to boat excise tax evasion, since every town does not collect.

DOR officials indicated that they send staff to the National Vessel Documentation Center in Falling Waters, West Virginia to extract data from the federal data base for the purpose of collecting sales taxes, and are now attempting to work out an interagency agreement with the U.S. Coast Guard, as well as request the information they need under the Freedom of Information Act. It is essential, however, that DOR provide this database on federally documented boats to the Director so he can in turn share it with the communities.

Considering the implications and concerns regarding homeland security and controlling access to restricted or sensitive sites (e.g., airports, nuclear power plants, fuel storage facilities) via waterways, harbors, tunnels, and bridges, it is imperative that all local, state and federal agencies that have any need for, interest in, or involvement with boat ownership data develop a comprehensive database of boats, and a well-coordinated and cooperative system to eliminate excise tax evasion, maximize state and local revenues, and provide for greater security. The Director informed us that in years past, there was a discussion about developing a national vessel identification system, but it never came to fruition. Recent news articles have emphasized the importance of data sharing and exchange as an important priority and ingredient in homeland security.

It is important that the state remove the obstacles and improve the system to be a cost-effective and efficient system in which all communities assess and collect all boat excise taxes owed, and lessen the burden on other sources of taxes and fees. In this regard, we noted that several communities have taken extra initiative and efforts to establish controls to collect what is due. For example, Boston has instituted a new city ordinance relative to boat slips and moorings, and is in the process of aggressively enhancing its boat excise tax system and pursuing this source of revenue. Likewise, Springfield, which is experiencing serious financial problems and has not collected boat excise taxes, has indicated that it is in the process of instituting aggressive measures to do so.

Recommendation

During these difficult fiscal times at both the state and local level, and with further concerns about safeguarding the homeland, its harbors and waterways, it is imperative that federal, state, and local agencies work together to eliminate the weaknesses, inequities, and complexities that serve to impede the development of a comprehensive, centralized database of all boat owners and discourage the collection of boat excise taxes. Adopting the proposed legislative amendments recommended by the Massachusetts Association of Assessor's Officers (see Appendix B) would be a good step in this

direction. These improvements should remove the disincentives to assessing and collecting boat excise taxes, simplify the system, increase revenue to the state and its communities, and provide additional funds for the maintenance and improvements of the waterways, public safety, and harbor masters as provided by Chapter 60B, Section 2, and Chapter 40, Section 5G, of the General Laws.

Accordingly, we recommend that:

- DOR work with the Coast Guard to obtain or purchase on an ongoing basis the database of federally documented boats. This will assist DOR in enhancing the collection of sales, use and excise taxes at the state level.
- DOR should then provide the Director of Marine and Recreational Vehicles with the list of all nationally documented boats in accordance with Chapter 60B, Section 6, of the General Laws. In this manner, thousands of boats that are escaping the system will now be included in a comprehensive list to be provided to the communities, and increase their potential excise tax base. This will also save the communities from duplicating the cost of purchasing the list.
- DOR officials and those from the Environmental Police, Registration and Titling Bureau of EOEA, should consult with local and federal officials, to streamline and improve the usefulness of the data on both the federal list of documented and the state list of registered boats. The goal should be to develop a centralized database in order to provide a useful list for each community, modeled after the automobile excise tax system. This will streamline and facilitate both the collection and enforcement aspects of the system.
- As do the states of New Hampshire, Rhode Island, New York and Florida, require the registration of all federally documented boats with the Commonwealth. This will generate over \$600,000 in estimated new revenue to the Commonwealth, which will continue to grow with the increased recreational use of boats in the Commonwealth. In addition, this will minimize the loss of sales tax by the sale of documented boats between two private individuals. The registration of federally documented vessels can be implemented within existing state statutes.
- In order to close the information loop and eliminate any gaps, the local harbormasters should, in accordance with Chapter 64H, Section 25B, of the General Laws, report to DOR any boats not registered or documented in the Commonwealth that were allowed to stay in their jurisdictions for a period of at least two weeks. This will not only identify more state and local revenue potential, but will provide a centralized comprehensive system, and improve state and local chances to participate in the federal Homeland Security Grant Program. This program is awarding hundreds of millions of dollars nationally for security, planning and projects to improve dockside and perimeter security. Information sharing and exchange is an essential ingredient to providing a basis for securing the borders and homeland.
- Recognizing the problems associated with the current system, and the concerns regarding security, all appropriate levels and branches of government, local, state, and federal, should develop a task force and begin the steps necessary to develop a national vessel identification system.

-
- The legislative proposals recommended by the Massachusetts Association of Assessor's Officers listed in Appendix B, should be adopted to improve collection and enforcement and increase the revenue collected, to make the system cost beneficial and eliminate the impediments which discourage, rather than encourage, collection efforts.
 - All communities should comply with the law and assess and collect boat excise taxes, which will eliminate or minimize those who evade the system by registering in communities or other states that are not now bothering to collect, level the playing field, and relieve the burden on other taxes and fees.
 - The procedures relative to the collection and payment of motor vehicle excise taxes according to Chapter 60A, Section 2A, of the General Laws, which are made available under Chapter 60B, Section 5, of the General Laws, should be utilized for not paying boat excise taxes.
 - All private and public marinas should be required to provide DOR and the communities they reside in with a list of all boats stored, moored or docked at their facility, and the owners' names and addresses.
 - Communities should be provided with access to the Commonwealth's Automated Intercept Program to recover unpaid excise taxes.
 - The Director should, in addition to providing communities with a list of boats stored therein, provide them with a list of boat owners who reside therein, but store elsewhere, until such time as all towns are collecting. This will minimize evasion and level the playing field. Any list provided should distinguish taxable boats from non-taxable boats.
 - The Bureau be provided with adequate resources to perform its mandate.
 - The most desirable situation would be for the state, as is the case with the motor vehicles excise tax system, to provide communities with boat excise tax bills and the related list.

APPENDIX A

Master List of Communities Reviewed

Our review included discussions with the officials of 162 selected communities including assessors, tax collectors, treasurers, and harbor masters where applicable from the following communities:

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Abington	X	
Acton	X	
Agawam	X	
Amherst	X	
Andover	X	
Arlington (*)		X
Ashland	X	
Athol	X	
Avon	X	
Ayer	X	
Barnstable		X
Bedford	X	
Berlin	X	
Bernardston	X	
Billerica	X	
Blackstone	X	
Blandford	X	
Bolton	X	
Boston		X
Bourne		X

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Boxborough	X	
Boylston	X	
Braintree		X
Brimfield	X	
Brockton		X
Brookline	X	
Burlington	X	
Cambridge	X	
Canton	X	
Carver	X	
Chelmsford	X	
Chelsea	X	
Clarksburg	X	
Clinton	X	
Concord	X	
Conway	X	
Cummington	X	
Dartmouth		X
Dedham	X	
Dracut	X	
Dunstable	X	
Duxbury		X
East Bridgewater	X	
East Brookfield	X	
East Hampton	X	

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Essex		X
Everett	X	
Fairhaven		X
Fall River		X
Falmouth		X
Fitchburg	X	
Foxborough	X	
Framingham	X	
Gardner	X	
Georgetown	X	
Gloucester		X
Grafton	X	
Great Barrington	X	
Groton	X	
Groveland	X	
Hadley		X
Hancock	X	
Hanover (*)		X
Hanson	X	
Harvard	X	
Harwich		X
Hatfield	X	
Hingham (*)		X
Holbrook	X	

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Holliston	X	
Holyoke	X	
Hopedale	X	
Hopkinton	X	
Hubbardston	X	
Hudson	X	
Hull		X
Kingston		X
Lakeville (*)		X
Lanesborough	X	
Lawrence	X	
Leicester	X	
Lenox	X	
Leominster	X	
Lexington	X	
Lincoln	X	
Littleton	X	
Longmeadow	X	
Lowell (*)		X
Lunenburg	X	
Lynnfield	X	
Malden	X	
Manchester		X
Marblehead		X

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Marlborough	X	
Marshfield		X
Maynard	X	
Medfield	X	
Medford (*)		X
Medway	X	
Melrose	X	
Methuen		X
Monson	X	
Natick	X	
Needham	X	
New Salem	X	
Newton		X
North Andover	X	
North Brookfield	X	
North Reading	X	
Norton	X	
Norwell		X
Peabody		X
Pelham	X	
Pembroke	X	
Pittsfield	X	
Plainfield	X	
Plymouth		X

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Plympton	X	
Princeton	X	
Quincy (*)		X
Randolph (*)	X	
Raynham (*)		X
Reading	X	
Revere	X	
Richmond	X	
Rockland	X	
Salem		X
Saugus	X	
Scituate		X
Shelburne	X	
Shirley	X	
Somerville	X	
Springfield	X	
Sterling	X	
Stoneham	X	
Stoughton	X	
Swampscott		X
Tewksbury	X	
Uxbridge	X	
Wakefield	X	
Waltham (*)		X

Community	Community Does Not Collect Boat Excise and Has Taxable Boats	Community Collects Boat Excise
Washington	X	
Watertown (*)		X
Wenham	X	
West Springfield	X	
Westford	X	
Westminster	X	
Weston	X	
Westwood	X	
Weymouth (*)		X
Whately	X	
Whitman (*)		X
Williamsburg	X	
Williamstown	X	
Wilmington	X	
Winchendon	X	
Winchester (*)		X
Windsor	X	
Winthrop		X
Woburn	X	
Worcester		X
Worthington	X	
TOTAL	<u>120</u>	<u>42</u>

*** Boat owners reside in a community that taxes but register or documented their boats in a community that does not tax.**

APPENDIX B

Legislation Relative to Boat Excise Tax

House Bill No. 3264

HOUSE No. 3264

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien and another relative to the collection of the boat excise tax. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO BOAT EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Amend Section 4 of Chapter 60B of the General Laws, as
2 appearing in the 1998 Official Edition, by striking the second
3 paragraph and replacing with the following new paragraph:—
4 If an excise assessed under this chapter becomes due and
5 payable and remains unpaid for fourteen days after a demand
6 therefor is made, the local Tax Collector or the Commissioner,
7 may at any time, in the calendar year in which the excise is first
8 committed and billed or in the next calendar year, transmit to the
9 director of the Division of Law Enforcement of the Department of
10 Fisheries, Wildlife and Environmental Affairs director, upon a
11 form approved by the Commissioner of Revenue, the person to
12 whom the excise is assessed, the amount of the excise due and
13 such information as to the vessel assessed as was transmitted by
14 the Director to the local Assessor under Section 11 of Chap-
15 ter 90B; provided, however, no notice shall be transmitted to the
16 Director under this section at a time when there is pending before
17 the Board of local Assessors or the Commissioner of Revenue, a
18 duly filed application for abatement of such excise in whole or in
19 part, or within 30 days after action upon any such application by
20 the local Board of Assessors or the Commissioner of Revenue. If
21 at the time such notice is received appears from the records of the
22 director that one or more vessels are registered in the name of the
23 person to whom the excise is assessed, the director shall forthwith
24 give such person written notice, by mail directed to his last known

House Bill No. 3264**2****HOUSE — No. 3264****[January 2003]**

25 place of abode, that the certificates of registration of all such
26 vessels will be suspended without further notice at the expiration
27 of 30 days from the date of mailing such notice, which expiration
28 date shall be specifically indicated by the director, in said notice,
29 unless within said 30 days there is filed with the director, together
30 with a filing fee to be determined annually by the Commissioner
31 of Administration under the provision of Section 3B of Chapter 7,
32 evidence satisfactory to the Commissioner that the excise, and all
33 interest thereon and costs relative thereto, have been paid or
34 legally abated. A deputy Director, Chief of Enforcement, Deputy
35 Chief of Enforcement, Environmental Police Officer of the Divi-
36 sion, a Harbormaster or Assistant Harbormaster, a state, city or
37 town police officer assigned to patrol the waters of the Common-
38 wealth, a Fish and Game Warden of the state police, upon the
39 request of the director, shall demand forthwith the certificates of
40 registration and certificates of number of such vessels when said
41 certificates have been suspended or revoked and shall forward
42 them to the director. In performing these duties, the director,
43 deputy director, Chief of Enforcement, Deputy Chief of Enforce-
44 ment, Environmental Police Officer of the Division, a Harbor-
45 master or Assistant Harbormaster, a state, city or town police
46 officer assigned to patrol the waters of the Commonwealth, a Fish
47 and Game Warden of the state police, shall have authority to pro-
48 ceed anywhere within the Commonwealth notwithstanding any
49 other provision of law. The fact that a vessel is being operated
50 during any such suspension of its certificate of number shall be
51 held to constitute such vessel a trespasser upon the waterways. All
52 sums received from said penalty shall be credited to the Municipal
53 Waterways Improvement and Maintenance Fund, established
54 under the provisions of clause (72) of Section 5 of Chapter 40.

The Bill was submitted to the Committee on Taxation on April 12, 2004

House Bill No. 3265

HOUSE No. 3265

By Mr. O'Brien of Kingston, petition of John P. Fresolo and another for legislation to facilitate the collection of the boat excise tax. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT TO FACILITATE THE COLLECTION OF THE BOAT EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of Chapter 90B of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 inserting, beginning on line 12, after the third sentence the
4 following:—

5 No owner of a motor boat shall be entitled to or issued a certifi-
6 cate of number unless such owner has included with any applica-
7 tion for such a certificate a copy of a receipt for payment of the
8 full amount of the excise due under Chapter 60B for the prior
9 fiscal year, including any amounts due for years prior to such
10 fiscal year.

1 SECTION 2. Section 4 of Chapter 90B of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended in the
3 first paragraph by inserting, beginning on line 5, after the first
4 sentence the following:—

5 No owner of a motor boat shall be entitled to or issued a
6 replacement certificate unless a certified copy of a receipt for pay-
7 ment of the full amount of the excise due under Chapter 60B for
8 the prior fiscal year, including any amounts due for years prior to
9 such fiscal year.

The Bill was submitted to the Committee on Taxation on April 12, 2004

House Bill No. 3266

HOUSE No. 3266

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien and another relative to the excise tax imposed on boats. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO BOAT EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Section 3, chapter 60B of the General Laws, as appearing in the
- 2 1998 Official Edition, is hereby amended by inserting after the
- 3 word "less." The following new sentence:
- 4 "The excise imposed by this section shall in no event be less
- 5 than ten dollars; no abatement under this section shall reduce any
- 6 such excise to less than five dollars; no abatement shall be granted
- 7 in an amount less than five dollars; and no refund shall be paid in
- 8 an amount less than five dollars."

The Bill was submitted to the Committee on Taxation on April 12, 2004

House Bill No. 3267

HOUSE No. 3267

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien and another relative to the collection of the excise tax imposed on certain boats. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO BOAT EXCISE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Amend Sec. 11, Chapter 90 of the General Laws, as appearing
- 2 in the 1998 Official Edition, by inserting the following new para-
- 3 graph at the end of the section:
- 4 "Suspend or revoke and cancel and require the surrender of any
- 5 certificate of number issued by him for the non-payment of the
- 6 boat excise tax, in accordance with Section 4 of Chapter 60B."

The Bill was submitted to the Committee on Taxation on April 12, 2004

House Bill No. 3268

HOUSE No. 3268

By Mr. O'Brien of Kingston, petition of Thomas J. O'Brien and another relative to the determination of the valuation of boats and vessels. Taxation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Three.

AN ACT RELATIVE TO MARINE VESSELS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Amend Sec. 2C1(c) of Chapter 60B of the General Laws, as
2 appearing in the 1998 Official Edition by striking C1(c) and
3 adding the following new C1.(c):

4 Clause (C). For the purpose of this excise the value of each
5 such boat or vessel shall be deemed to be the value, as determined
6 by the commissioner, of boats or vessels of the same make, type,
7 model and year of manufacture as designated by the manufacturer,
8 but not in excess of the following percentages of the list price
9 established by the manufacturer for the year of manufacture,
10 namely:

- 11 In the year preceding the designated year of manufacture 50%
- 12 In the year of manufacture 90%
- 13 In the second year 80%
- 14 In the third year 70%
- 15 In the fourth year 60%
- 16 In the fifth year and succeeding years 50%
- 17 As listed in the ABOS Marine Blue Book

18 If publication does not contain a value for the make, type,
19 model and year of a vessel subject to taxation under this chapter,
20 the value of the vessel shall not be in excess of the following
21 values of the original chart used in Section 2, Clause C of
22 Chapter 60B.

House Bill No. 3268

2	HOUSE — No. 3268	[January		
23	LENGTH OF VESSEL	VALUATIONS OF VESSELS		
24	(Overall Center line	(based on age of Vessel)		
25	Length excluding bow-			
26	sprits, boomkins and			
27	similar extensions)	Under 4	4 thru 6	7 or More
28		Years of	Years of	Years of
29		age	age	age
30	Under 16'	\$ 1,000	\$ 700	\$ 400
31	16' but less than 17.5'	1,500	1,000	800
32	17.5' but less than 20'	3,000	2,000	1,500
33	20' but less than 22.5'	5,000	3,300	2,500
34	22.5' but less than 25'	7,500	5,000	3,800
35	25' but less than 27.5'	10,500	7,000	5,300
36	27.5' but less than 30'	14,000	9,300	7,000
37	30' but less than 35'	18,500	12,300	9,300
38	35' but less than 40'	24,000	16,000	12,000
39	40' but less than 50'	31,500	21,000	15,800
40	50' but less than 60'	41,000	27,300	20,500
41	60' or over	50,000	33,000	24,800

42 Amend Sec. 2C1(H) of Chapter 60B of the General Laws, as
 43 appearing in the 1998 Official Edition, by striking C1(H) and
 44 adding the following new C1.(H):

45 Clause (H). If a boat or vessel is originally registered or pur-
 46 chased after July first in any fiscal year, the excise under this
 47 section shall be that proportion of the excise for the full fiscal year
 49 which the number of months in said year following the month pre-
 50 ceding that in which the boat or vessel is registered or owned
 51 bears to twelve. If during any fiscal year ownership of a boat or
 52 vessel subject to an excise under this chapter is transferred by sale
 53 or otherwise, and the registration of such boat or vessel is surren-
 54 dered or transferred to another boat or vessel, or if during any
 55 fiscal year the owner of a boat or vessel subject to such an excise
 56 removes to another state and registers the boat in such other state
 57 and surrenders or does not renew his registration in this state, the
 58 excise under this Chapter shall be reduced upon application, by an
 59 abatement equal to that proportion of the excise under this section
 60 on such boat or vessel for the full fiscal year which the number of

House Bill No. 3268**2003]****HOUSE — No. 3268****3**

61 months in said year remaining after the month in which such sale
62 or transfer or otherwise or such surrender or transfer of registra-
63 tion occurs bears to twelve. No abatement under this section shall
64 reduce any such excise to less than five dollars. No abatement
65 shall be granted in an amount less than five dollars and no refund
66 shall be paid in an amount less than five dollars.

The Bill was submitted to the Committee on Taxation on April 12, 2004

APPENDIX C

Glossary of Terms

STATE

Vessel - Every watercraft, including documented boats and ships, used or capable of being used as a means of Transportation on water, and includes all equipment, including mode of power, and furnishings that are normally required aboard the vessel during accomplishment of the function for which the vessel is being utilized.

Habitually Moored or Docked- The place where the owner has usual mooring or dockage for the summer season.

Principally Situated - For a registered ship or vessel where it is registered, and for a non-registered ship or vessel, whether documented or not, the city or town in Massachusetts where it is principally located during the calendar year.

Storage Town – Is the city or town where a vessel is moored, docked or stored as recorded on the state registration and titling application.

Certificate of Number - A document issued by the director, upon application thereof, stating the name and address of the owner of, and the number awarded to a vessel except such vessels, other than livery boats, owned by a manufacturer of or dealer in boats.

Identification Number – The number awarded to a vessel and upon approval of an application for a certificate of number.

FEDERAL

Hailing Port - Designated name of a place in the United States exactly as it is or will be marked on the vessel. A certificate of documentation becomes invalid once a designated hailing port changes.

Documented Vessel –Owners with vessels that measure more than 25 feet in length and are at least five net tons in volume are eligible to have their vessels federally documented by the Coast Guard. This form of federal documentation provides conclusive evidence of nationality for international purposes. Since 1920, vessel financing has been enhanced through the availability of preferred mortgages on documented vessels. The basic requirements for documentation are to demonstrate ownership of the vessel and U.S. Citizenship. Any documented vessel may be used for recreational purposes but a vessel documented with a recreational endorsement only may not be used for any other purpose.

One of the advantages of having a vessel federally documented is that the owner receives the endorsement that the vessel has a clear title and the ability to acquire preferred financing, if needed.

The endorsement also gives the owner the ability to sell, transfer, purchase or trade any federally documented vessel without the legal requirements associated with a normal purchase or sale. Once the vessel is federally documented the endorsement is updated on a yearly basis.